

105TH CONGRESS
2D SESSION

S. 2221

To grant the power to the President to reduce budget authority.

IN THE SENATE OF THE UNITED STATES

JUNE 25, 1998

Mr. MCCAIN (for himself and Mr. COATS) introduced the following bill; which was read twice and referred jointly pursuant to the order of August 4, 1977, to the Committees on the Budget and Governmental Affairs, with instructions that if one committee reports, the other committee have thirty days to report or be discharged

A BILL

To grant the power to the President to reduce budget authority.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “The Separate Enroll-
5 ment and Line Item Veto Act of 1998”.

6 **SEC. 2. STRUCTURE OF LEGISLATION.**

7 (a) APPROPRIATIONS LEGISLATION.—

8 (1) The Committee on Appropriations of either
9 the House or the Senate shall not report an appro-

1 priation measure that fails to contain such level of
2 detail on the allocation of an item of appropriation
3 proposed by that House as is set forth in the com-
4 mittee report accompanying such bill.

5 (2) If an appropriation measure is reported to
6 the House or Senate that fails to contain the level
7 of detail on the allocation of an item of appropria-
8 tion as required in paragraph (1), it shall not be in
9 order in that House to consider such measure. If a
10 point of order under this paragraph is sustained, the
11 measure shall be recommitted to the Committee on
12 Appropriations of that House.

13 (b) AUTHORIZATION LEGISLATION.—

14 (1) A committee of either the House or the
15 Senate shall not report an authorization measure
16 that contains new direct spending or new targeted
17 tax benefits unless such measure presents each new
18 direct spending or new targeted tax benefit as a sep-
19 arate item and the accompanying committee report
20 for that measure shall contain such level of detail as
21 is necessary to clearly identify the allocation of new
22 direct spending or new targeted tax benefits.

23 (2) If an authorization measure is reported to
24 the House or Senate that fails to comply with para-
25 graph (1), it shall not be in order in that House to

1 consider such measure. If a point of order under this
2 paragraph is sustained, the measure shall be recom-
3 mitted to the committee of jurisdiction of that
4 House.

5 (c) CONFERENCE REPORTS.—

6 (1) A committee of conference to which is com-
7 mitted an appropriations measure shall not file a
8 conference report in either House that fails to con-
9 tain the level of detail on the allocation of an item
10 of appropriation as is set forth in the statement of
11 managers accompanying that report.

12 (2) A committee of conference to which is com-
13 mitted an authorization measure shall not file a con-
14 ference report in either House unless such measure
15 presents each direct spending or targeted tax benefit
16 as a separate item and the statement of managers
17 accompanying that report clearly identifies each
18 such item.

19 (3) If a conference report is presented to the
20 House or Senate that fails to comply with either
21 paragraph (1) or (2), it shall not be in order in that
22 House to consider such conference report. If a point
23 of order under this paragraph is sustained in the
24 House to first consider the conference report, the

1 measure shall be deemed recommitted to the com-
2 mittee of conference.

3 **SEC. 3. WAIVERS AND APPEALS.**

4 Any provision of section 2 may be waived or sus-
5 pended in the House or Senate only by an affirmative vote
6 of three-fifths of the Members of that House duly chosen
7 and sworn. An affirmative vote of three-fifths of the Mem-
8 bers duly chosen and sworn shall be required to sustain
9 an appeal of the ruling of the Chair on a point of order
10 raised under that section.

11 **SEC. 4. SEPARATE ENROLLMENT.**

12 (a)(1) Notwithstanding any other provision of law,
13 when any appropriation or authorization measure first
14 passes both Houses of Congress in the same form, the Sec-
15 retary of the Senate (in the case of a measure originating
16 in the Senate) or the Clerk of the House of Representa-
17 tives (in the case of a measure originating in the House
18 of Representatives) shall disaggregate the items as ref-
19 erenced in section 5(4) and assign each item a new bill
20 number. Henceforth each item shall be treated as a sepa-
21 rate bill to be considered under the following subsections.
22 The remainder of the bill not so disaggregated shall con-
23 stitute a separate bill and shall be considered with the
24 other disaggregated bills pursuant to subsection (b).

1 (2) A bill that is required to be disaggregated into
2 separate bills pursuant to subsection (a)—

3 (A) shall be disaggregated without substantive
4 revision, and

5 (B) shall bear the designation of the measure of
6 which it was an item prior to such disaggregation,
7 together with such other designation as may be nec-
8 essary to distinguish such measure from other meas-
9 ures disaggregated pursuant to paragraph (1) with
10 respect to the same measure.

11 (b) The new bills resulting from the disaggregation
12 described in paragraph (1) of subsection (a) shall be im-
13 mediately placed on the appropriate calendar in the House
14 of origination, and upon passage, placed on the appro-
15 priate calendar in the other House. They shall be the next
16 order of business in each House and they shall be consid-
17 ered and voted on en bloc and shall not be subject to
18 amendment. A motion to proceed to the bills shall be non-
19 debatable. Debate in the House of Representatives or the
20 Senate on the bill shall be limited to not more than 1 hour,
21 which shall be divided equally between the majority leader
22 and the minority leader. A motion further to limit debate
23 is not debatable. A motion to recommit the bills is not
24 in order, and it is not in order to move to reconsider the
25 vote by which the bills are agreed to or disagreed to.

1 **SEC. 5. DEFINITIONS.**

2 For purposes of this Act:

3 (1) The term “appropriation measure” means
4 any general or special appropriation bill or any bill
5 or joint resolution making supplemental, deficiency,
6 or continuing appropriations.

7 (2) The term “authorization measure” means
8 any measure other than an appropriations measure
9 that contains a provision providing direct spending
10 or targeted tax benefits.

11 (3) The term “direct spending” shall have the
12 same meaning given to such term in section
13 250(c)(8) of the Balanced Budget and Emergency
14 Deficit Control Act of 1985.

15 (4) The term “item” means—

16 (A) with respect to an appropriations
17 measure—

18 (i) any numbered section,

19 (ii) any unnumbered paragraph, or

20 (iii) any allocation or suballocation of
21 an appropriation, made in compliance with
22 section 2(a), contained in a numbered sec-
23 tion or an unnumbered paragraph but
24 shall not include a provision which does
25 not appropriate funds, direct the President
26 to expend funds for any specific project, or

1 create an express or implied obligation to
 2 expend funds and—

3 (I) rescinds or cancels existing
 4 budget authority;

5 (II) only limits, conditions, or
 6 otherwise restricts the President’s au-
 7 thority to spend otherwise appro-
 8 priated funds; or

9 (III) conditions on an item of ap-
 10 propriation not involving a positive al-
 11 location of funds by explicitly prohib-
 12 iting the use of any funds; and

13 (B) with respect to an authorization meas-
 14 ure—

15 (i) any numbered section, or
 16 (ii) any unnumbered paragraph,
 17 that contains new direct spending or a new tar-
 18 geted tax benefit presented and identified in
 19 conformance with section 2(b).

20 (5) The term “targeted tax benefit” means any
 21 provision—

22 (A) estimated by the Joint Committee on
 23 Taxation as losing revenue for any one of the
 24 three following periods—

1 (i) the first fiscal year covered by the
2 most recently adopted concurrent resolu-
3 tion on the budget;

4 (ii) the period of the 5 fiscal years
5 covered by the most recently adopted con-
6 current resolution on the budget; or

7 (iii) the period of the 5 fiscal years
8 following the first 5 years covered by the
9 most recently adopted concurrent resolu-
10 tion on the budget; and

11 (B) having the practical effect of providing
12 more favorable tax treatment to a particular
13 taxpayer or limited group of taxpayers when
14 compared with other similarly situated tax-
15 payers.

16 **SEC. 6. JUDICIAL REVIEW.**

17 (a) EXPEDITED REVIEW.—

18 (1) Any Member of Congress may bring an ac-
19 tion, in the United States District Court for the Dis-
20 trict of Columbia, for declaratory judgment and in-
21 junctive relief on the ground that a provision of this
22 Act violates the Constitution.

23 (2) A copy of any complaint in an action
24 brought under paragraph (1) shall be promptly de-
25 livered to the Secretary of the Senate and the Clerk

1 of the House of Representatives, and each House of
2 Congress shall have the right to intervene in such
3 action.

4 (3) Any action brought under paragraph (1)
5 shall be heard and determined by a three-judge
6 court in accordance with section 2284 of title 28,
7 United States Code.

8 Nothing in this section or in any other law shall infringe
9 upon the right of the House of Representatives or the Sen-
10 ate to intervene in an action brought under paragraph (1)
11 without the necessity of adopting a resolution to authorize
12 such intervention.

13 (b) APPEAL TO SUPREME COURT.—Notwithstanding
14 any other provisions of law, any order of the United States
15 District Court for the District of Columbia which is issued
16 pursuant to an action brought under paragraph (1) of sub-
17 section (a) shall be reviewable by appeal directly to the
18 Supreme Court of the United States. Any such appeal
19 shall be taken by a notice of appeal filed within 10 days
20 after such order is entered; and the jurisdictional state-
21 ment shall be filed within 30 days after such order is en-
22 tered. No stay of an order issued pursuant to an action
23 brought under paragraph (1) of subsection (a) shall be
24 issued by a single Justice of the Supreme Court.

1 (c) EXPEDITED CONSIDERATION.—It shall be the
 2 duty of the District Court for the District of Columbia
 3 and the Supreme Court of the United States to advance
 4 on the docket and to expedite to the greatest possible ex-
 5 tent the disposition of any matter brought under sub-
 6 section (a).

7 (d) SEVERABILITY.—If any provision of this Act, or
 8 the application of such provision to any person or cir-
 9 cumstance is held unconstitutional, the remainder of this
 10 Act and the application of the provisions of such Act to
 11 any person or circumstance shall not be affected thereby.

12 **SEC. 7. TREATMENT OF EMERGENCY SPENDING.**

13 (a) EMERGENCY APPROPRIATIONS.—Section
 14 251(b)(2)(D)(i) of the Balanced Budget and Emergency
 15 Deficit Control Act of 1985 is amended by adding at the
 16 end the following new sentence: “However, OMB shall not
 17 adjust any discretionary spending limit under this clause
 18 for any statute that designates appropriations as emer-
 19 gency requirements if that statute contains an appropria-
 20 tion for any other matter, event, or occurrence, but that
 21 statute may contain rescissions of budget authority.”.

22 (b) EMERGENCY LEGISLATION.—Section 252(e) of
 23 the Balanced Budget and Emergency Deficit Control Act
 24 of 1985 is amended by adding at the end the following
 25 new sentence: “However, OMB shall not designate any

1 such amounts of new budget authority, outlays, or receipts
2 as emergency requirements in the report required under
3 subsection (d) if that statute contains any other provisions
4 that are not so designated, but that statute may contain
5 provisions that reduce direct spending.”.

6 (c) NEW POINT OF ORDER.—Title IV of the Congres-
7 sional Budget Act of 1974 is amended by adding at the
8 end the following new section:

9 “POINT OF ORDER REGARDING EMERGENCIES

10 “SEC. 408. It shall not be in order in the House of
11 Representatives or the Senate to consider any bill or joint
12 resolution, or amendment thereto or conference report
13 thereon, containing an emergency designation for purposes
14 of section 251(b)(2)(D) or 252(e) of the Balanced Budget
15 and Emergency Deficit Control Act of 1985 if it also pro-
16 vides an appropriation or direct spending for any other
17 item or contains any other matter, but that bill or joint
18 resolution, amendment, or conference report may contain
19 rescissions of budget authority or reductions of direct
20 spending, or that amendment may reduce for that emer-
21 gency.”.

22 (d) CONFORMING AMENDMENT.—The table of con-
23 tents set forth in section 1(b) of the Congressional Budget
24 and Impoundment Control Act of 1974 is amended by in-

1 serting after the item relating to section 407 the following
 2 new item:

“Sec. 408. Point of order regarding emergencies.”.

3 **SEC. 8. SAVINGS FROM RESCISSION BILLS USED FOR DEFI-**
 4 **CIT REDUCTION.**

5 (a) Not later than 45 days of continuous session after
 6 the President vetoes an appropriations measure or an au-
 7 thorization measure, the President shall—

8 (1) with respect to appropriations measures, re-
 9 duce the discretionary spending limits under section
 10 601 of the Congressional Budget Act of 1974 for the
 11 budget year and each outyear by the amount by
 12 which the measure would have increased the deficit
 13 in each respective year; and

14 (2) with respect to a repeal of direct spending,
 15 or a targeted tax benefit, reduce the balances for the
 16 budget year and each outyear under section 252(b)
 17 of the Balanced Budget and Emergency Deficit Con-
 18 trol Act of 1985 by the amount by which the meas-
 19 ure would have increased the deficit in each respec-
 20 tive year.

21 (b) EXCEPTIONS.—

22 (1) This section shall not apply if the vetoed
 23 appropriations measure or authorization measure be-
 24 comes law, over the objections of the President, be-

1 fore the President orders the reduction required by
 2 subsections (a)(1) or (a)(2).

3 (2) If the vetoed appropriations measure or au-
 4 thorization measure becomes law, over the objections
 5 of the President, after the President has ordered the
 6 reductions required by subsections (a)(1) or (a)(2),
 7 then the President shall restore the discretionary
 8 spending limits under section 601 of the Congres-
 9 sional Budget Act of 1974 or the balances under
 10 section 252(b) of the Balanced Budget and Emer-
 11 gency Deficit Control Act of 1985 to reflect the posi-
 12 tions existing before the reduction ordered by the
 13 President in compliance with subsection (a).

14 **SEC. 9. EVALUATION AND SUNSET OF TAX EXPENDITURES.**

15 (a) **LEGISLATION FOR SUNSETTING TAX EXPENDI-**
 16 **TURES.**—The President shall submit legislation for the
 17 periodic review, reauthorization, and sunset of tax expend-
 18 itures with his fiscal year 2000 budget.

19 (b) **BUDGET CONTENTS AND SUBMISSION TO CON-**
 20 **GRESS.**—Section 1105(a) of title 31, United States Code,
 21 is amended by adding at the end the following paragraph:

22 “(30) beginning with fiscal year 2002, a Fed-
 23 eral Government performance plan for measuring
 24 the overall effectiveness of tax expenditures, includ-
 25 ing a schedule for periodically assessing the effects

1 of specific tax expenditures in achieving performance
2 goals.”.

3 (c) PILOT PROJECTS.—Section 1118(c) of title 31,
4 United States Code, is amended by—

5 (1) striking “and” after the semicolon in para-
6 graph (2);

7 (2) redesignating paragraph (3) as paragraph
8 (4); and

9 (3) adding after paragraph (2) the following:

10 “(3) describe the framework to be utilized by
11 the Director of the Office of Management and Budg-
12 et, after consultation with the Secretary of the
13 Treasury, the Comptroller General of the United
14 States, and the Joint Committee on Taxation, for
15 undertaking periodic analyses of the effects of tax
16 expenditures in achieving performance goals and the
17 relationship between tax expenditures and spending
18 programs; and”.

19 (d) CONGRESSIONAL BUDGET ACT.—Title IV of the
20 Congressional Budget Act of 1974 is amended by adding
21 at the end thereof the following:

22 “TAX EXPENDITURES

23 “SEC. 409. It shall not be in order in the House of
24 Representatives or the Senate to consider any bill, joint
25 resolution, amendment, motion, or conference report that
26 contains a tax expenditure unless the bill, joint resolution,

1 amendment, motion, or conference report provides that
2 the tax expenditure will terminate not later than 10 years
3 after the date of enactment of the tax expenditure.”.

4 **SEC. 10. EFFECTIVE DATE.**

5 The provisions of this Act shall apply to measures
6 passed by the Congress beginning with the date of the en-
7 actment of this Act and ending on September 30, 2003.

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